

Supreme Court, U. S.
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MICHAEL RODAK, JR., CLERK

APPENDIX

In the Supreme Court of the United States

OCTOBER TERM, 1978

Nos. 77-1665 and 78-156

JOSEPH CHARLES BONANNO, JR.,

Petitioner

—v.—

UNITED STATES OF AMERICA

UNITED STATES OF AMERICA,

Petitioner

—v.—

HUGH J. ADDONIZIO

UNITED STATES OF AMERICA,

Petitioner

—v.—

THOMAS J. WHELAN AND THOMAS M. FLAHERTY

ON WRITS OF CERTIORARI TO THE UNITED STATES
COURTS OF APPEALS FOR THE NINTH AND THIRD CIRCUITS

PETITION FOR CERTIORARI IN NO. 77-1665 FILED MAY 22, 1978

PETITION FOR CERTIORARI IN NO. 78-156 FILED JULY 27, 1978

CERTIORARI GRANTED DECEMBER 11, 1978

In the Supreme Court of the United States

OCTOBER TERM, 1978

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UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

CR. 548-69

UNITED STATES OF AMERICA

v.

HUGH J. ADDONIZIO

RELEVANT DOCKET ENTRIES

DATE	PROCEEDINGS
9-23-70	Sentence—10 years, fine of \$25,000.00 Ordered bail continued (Barlow) (9-22-70)
9-24-70	Judgment and Commitment filed 9-23-70 (Barlow)
10-1-70	Notice of Appeal filed 9-30-70
9-22-70	Opinion of U.S.C.A. affirming U.S.D.C. filed 9-21-71
9-28-71	Order of U.S.C.A. amending opinion filed.
1-13-72	Order of U.S.C.A. amending opinion of 9-16-71 filed 1-11-72 (Vicaro, Addonizio, LaMorte and Biancone)
3-3-72	Certified copy of Order of U.S.C.A. in lieu of formal mandate affirming Judgment of U.S.D.C. filed 3-1-72
3-8-72	Copy of Judgment and Commitment with Marshal's return endorsed thereon filed 3-7-72
5-15-72	Notice of motion for reduction of sentence, for sentence under Title 18 U.S.C. 4208(a), and for correction of illegal sentence, returnable 6-5-72 filed
6-20-72	Hearing on motion for reduction of sentence; for sentence under Title 18 U.S.C. 4208(a); and for correction of illegal sentence. Order motion denied. (Barlow) (6-19-72)

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

Civil No. 76-2048

HUGH J. ADDONIZIO

v.

UNITED STATES OF AMERICA

RELEVANT DOCKET ENTRIES

DATE	PROCEEDINGS
10-27-76	Notice of motion to vacate sentence imposed in Criminal 548-69, and to correct sentence to time already served filed 10-26-76
11-16-76	Hearing on motion to vacate sentence imposed in Cr. 548-69 and to correct sentence to time already served. DECISION RESERVED. (Barlow) (11-15-76)
4-28-77	Opinion filed 4-27-77. (Barlow) Order granting motion to vacate sentence in Cr. 548-69 imposed on 9-22-70 and resentencing him to time already served filed 4-27-77. (Barlow)
4-28-77	Order denying respondent's application for stay filed. (Barlow)
4-29-77	Hearing on government's motion for stay of order of 4-27-77. Ordered motion denied. Order to be submitted. (Barlow) (4-28-77)
4-29-77	Notice of Appeal filed 4-28-77

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

Case No. 77-1542

HUGH J. ADDONIZIO

v.

UNITED STATES OF AMERICA

RELEVANT DOCKET ENTRIES

DATE	PROCEEDINGS
5-2-77	Notice of Appeal filed in D.C. April 28, 1977 received May 2, 1977, filed
5-2-77	Order (Gibbons, C.J.) dated April 28, 1977, denying appellant's application for stay of D.C. order dated April 27, 1977, without prejudice, filed.
5-2-77	Order (<i>Hunter</i> and Maris, C.J.) granting appellant's motion to return appellee to the custody of the Attorney General pending appeal and ordering Addonizio returned to the custody of the Attorney General pending determination of this appeal, filed
5-3-77	Order (Seitz, Ch. J. and Maris, Van Dusen, Aldisert, Adams, Gibbons, Rosenn, <i>Hunter</i> , Weiss and Garth, C.J.) denying appellee's motion for stay of this Court's order dated May 2, 1977, filed.
5-3-77	Petition for rehearing in banc of Court's order or May 2, 1977, filed
5-16-77	Copy of letter dated May 12, 1977 received from the Supreme Court of the United States advising they entered the following order: The application to vacate the order entered May 2, 1977, by the United States Court of Appeals for the Third Circuit, Case No. 77-1542, presented to Mr. Justice Brennan and by him referred to the Court, is granted pursuant to Sup. Ct. Rule 49(3).

DATE	PROCEEDINGS
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The order filed April 27, 1977, by the United States District Court for the District of New Jersey is reinstated pending decision of the Court of Appeals of the appeal therefrom. The Chief Justice and Mr. Justice Rehnquist dissent. (S.C. No. A-917).

1-12-78 Argued. Coram: Aldisert and Hunter, Civ. and Cahn, D.J.

2-27-78 Opinion of the Court (*Aldisert and Hunter, C.J. and Cahn, D.J.*) filed

2-27-78 Judgment affirming the order of the district court filed April 27, 1977, filed

4-3-78 Order (*Aldisert and Hunter, C.J. and Cahn, D.J.* (*Clerk*) amending the slip opinion filed on February 27, 1978, filed

4-25-78 Certified judgment in lieu of formal mandate issued.

TRANSCRIPT OF SEPTEMBER 22, 1970 SENTENCING PROCEEDINGS

[3] THE COURT: Mr. Stern.

MR. STERN: Your Honor, if it please the Court, the United States at this time respectfully moves the case of the United States of America v. Hugh J. Addonizio for sentencing.

THE COURT: Mr. Addonizio, step forward, please, and Mr. Hellring.

Yes, Mr. Hellring.

MR. HELLRING: May it please the Court, as this case approaches the moment of judgment, I ask for my client in the exercise of the Court's judicial discretion the minimum sentence which is consistent with the protection of the public, the gravity of the offense and the rehabilitative needs of the defendant. I ask for this in the light of the most enlightened thinking on this subject in the administration of justice today and in the light of these principles I suggest to your Honor respectfully that that sentence should include no custody or confinement for my client, and I venture to suggest this to your Honor upon the basis of my client's life.

He is a man 56 years of age, born and brought up in the City of Newark, the product of a closely-knit warm, middleclass family, the product of schools in the metropolitan area, a graduate of St. Benedict's Prep and of Fordham University, in which places he early [4] distinguished himself as a leader of men, not only in the educational process but also on the gridiron, and became indeed famous throughout the state and the nation because of his exploits as a leader of young men in this area of activity.

After graduation and a period of business activity with his father, Hugh Addonizio in January of 1941 entered as a private in the United States Army. He remained continuously in the United States Army for more than five years, after which he was honorably discharged with the rank of captain. During that period of five years most of his time was spent overseas in actual battle combat. He risked his life for his nation on almost

a daily basis, and by reason thereof received hosts of awards, including the Bronze Star, and is one of the few men in this nation to hold eight campaign medals for his combat campaigns in the north of Africa, in Europe under General Patton, in England and in virtually all of the campaigns in which this country was engaged in the Second World War.

Immediately after leaving the Army in 1946 and a short return to his business life, he entered into politics and two years later he was elected to the United States Congress from a district which included the suburban area of the Oranges, suburban Newark, and [5] approximately two-fifths of the City of Newark, and he served in this district with great and unblemished distinction for fourteen years. His representation of his people in Congress was distinguished not so much by his record as a member of the Committee on Banking and Currency and as a member of the Committee on Housing, but by the untold daily things that he did for the people in his district who knew him and who loved him because he was ready at any time to be of help and stressed the needs of the poor and the underprivileged in the help in which he gave, and stressed the needs of the poor and underprivileged in the interests in which he followed in his days in Congress.

When he left the Congress in 1962, after fourteen years, to run for Mayor of the City of Newark, he did so at a time when Newark was at a standstill, the largest urban center of our state, part of the greatest metropolitan area of our nation, a city which for decades had been subjected to the aura of corruption and impropriety, as is true of most of our urban centers and has been true of them for so many decades, a city which was standing still. For eight years he served as the mayor of that city. His eight years were eight years of great forward movement in the City of Newark for the people. These eight years were years when Newark opened its arms, [6] opened her arms to the poor and underprivileged, not only the black, but of every minority group, a melting pot which is in the greatest and highest tradition of our nation, and in that way followed all of the dictates and precepts which had been learned over the years by my client.

During his period as mayor, my client saw to the development of the Meadowlands Project, a project which had stood still for decades and been planned but nothing had happened until he became mayor. The commencement of the largest commercial renewal project in the history of New Jersey is now in progress as the result of the commencement of that project during my client's administration. It was my client whose administration brought into being the middle-income housing legislation, after fighting for its adoption. It was finally passed in the 1968-69 term. For decades Routes 78 and 280 had been planned, without any action, and these were finally agreed upon and cleared as the result of the day-and-night efforts of my client. There is today in progress a 100-million-dollar improvement program at Newark Airport, which is almost singlehanded the result of the efforts of my client, who recognized the terrible condition in which our airline industry in the East found itself, and at great political risk undertook the [7] necessary negotiations for years that resulted in the present project.

There is at present being constructed in the City of Newark the New Jersey College of Medicine and Dentistry. It would not be under construction there today were it not for my client, nor would the improvements and the growth of the Essex County Community College and the expansion of Rutgers and the Newark College of Engineering.

One of the reasons why my client left Congress and decided to run for Mayor of the City of Newark was because of his experience in bringing to the urban communities much-needed programs for urban benefits, and so it happened the City of Newark went to the forefront in this area. The Newark Model Cities Program became considered by the Department of Housing and Urban Development as a model for the nation, and the Financial Aid Program, the Federal Financial Aid Program was first and foremost in the City of Newark. Newark's Public Housing Program became the largest in the nation on a per-capita basis. Even the projects which were the subject matter of the litigation before your

Honor, the South Side Interceptor Sewer and the South-
erly Extension were projects of enormous imagination,
one of which, at least, had been under consideration for
a long time without any action, [8] and they were
brought into existence in my client's administration, and
at the time they were brought into existence, received
the greatest praise for the activity which resulted in
bringing them into being.

At the end of that 27 years of public life I suppose
that my client in the last mayoralty election in Newark
received the highest kind of recommendation that can
be brought before a tribunal. When I asked myself after
the verdict of the jury what kind of recommendations
can I bring to the Court about my client, it seemed to
me and it seems to me now that when a man, after
two years of public calumny in the press, culminating in
an indictment which is tried during an election, with
the daily bombardment which is necessitated under those
circumstances, when a man stands before his peers, be-
fore the jury, which decided on election day, and he gets
45% of their votes, then I think that is more recom-
mendation than I can suggest in any other way to your
Honor.

I recognize that at this time your Honor must assume
the guilt of my client. The presumption of innocence
is gone. The jury has found him guilty, but I would
respectfully suggest to your Honor that even so, it is
appropriate and proper for your Honor to take into con-
sideration not only the verdict of the jury, not only the
gravity of the offense, but also the nature and [9] the
quantity and the quality of the evidence which was ad-
duced against my client, and I respectfully suggest to
your Honor that all of that evidence, with the exception
of the testimony of one man, was hearsay, which would
not have been admissible were this not a conspiracy case,
and that as to the testimony of that one man, it was
the testimony of a man who is unworthy, a man whose
record, when placed against the record of my client, who
contradicted his testimony, remains unworthy.

I ask for your Honor's discretion. I ask justice for
my client. Thank you.

THE COURT: Thank you, Mr. Hellring.

Do you have anything, Mr. Addonizio, that you wish
to say in your own behalf before I pronounce sentence
upon you?

MR. ADDONIZIO: Thank you, your Honor, but I be-
lieve that my attorney has covered the matter.

THE COURT: Mr. Addonizio and Mr. Hellring, I am
mindful, of course, of Mr. Addonizio's past accomplish-
ments and of his honorable service in World War II, that
he was elected seven times to the Congress of the United
States, that he was elected to two successive four-year
terms as the Mayor of Newark. I am also aware of the
many honors and awards, both military and civil, which
were conferred upon him during these years, and I [10]
recognize that in many instances he served his country
and he served his constituency well.

Weighed against these virtues, however, Mr. Hellring,
is his conviction by a jury in this court of crimes of
monumental proportion, the enormity of which can
scarcely be exaggerated and the commission of which
create the gravest implications for our form of govern-
ment.

Mr. Addonizio, and the other defendants here, have
been convicted of one count of conspiring to extort and
63 substantive counts of extorting hundreds of thousands
of dollars from persons doing business with the City of
Newark. An intricate conspiracy of this magnitude, I
suggest to you, Mr. Hellring, could have never succeeded
without the then-Mayor Addonizio's approval and par-
ticipation.

These were no ordinary criminal acts. These crimes
were not the product of a moment of weakness, nor
were they inspired by any of the defendant's desperate
financial circumstances, nor were they the result of some
emotional compulsion. These crimes for which Mr. Ad-
donizio and the other defendants have been convicted
represent a pattern of continuous, highly-organized sys-
tematic criminal extortion over a period of many years,
claiming many victims and touching many more lives.
[11] Instances of corruption on the part of elected and
appointed governmental officials are certainly not novel
to the law, but the corruption disclosed here, it seems to
the Court, is compounded by the frightening alliance of

criminal elements and public officials, and it is this very kind of totally destructive conspiracy that was conceived, organized and executed by these defendants.

The criminal acts of these defendants were as calculated as they were brazen, as callous and contemptuous of the law as they were extensive. Nor can these defendants' criminal conduct be measured in dollars alone. It is impossible to estimate the impact upon—and the cost of—these criminal acts to the decent citizens of Newark, and, indeed, to the citizens of the State of New Jersey, in terms of their frustration, despair and disillusionment. How can we calculate the cynicism engendered in our citizens, including our youngsters, by these men? How does one measure the erosion of confidence in our system of government and the diminished respect for our laws occasioned by these men? These very men—or some of them—who, as governmental officials, inveighed against crime in the streets, while they pursued their own criminal activities in the corridors of City Hall.

[12] Their crimes, in the judgment of this Court, tear at the very heart of our civilized form of government and of our society. The people will not tolerate such conduct at any level of government, and those who use their public office to betray the public trust in this manner can expect from the courts only the gravest consequences.

Although the jury here—and quite properly—found the defendants guilty of one count of conspiracy and of 63 counts of extortion, each separate crime, all committed in furtherance of that conspiracy, for the purposes of sentencing I regard these acts as representing a single continuing pattern of criminal activity, and therefore I will not sentence the defendants or any of them on each count for which they were convicted, but on the total indictment itself.

It is, accordingly, the sentence of this Court that the defendant Hugh J. Addonizio shall be committed to the custody of the Attorney General of the United States for a term of ten years, and that, additionally, the defendant Hugh J. Addonizio shall pay a fine of \$25,000. That is all.

[SEAL]

January 24, 1977

UNITED STATES DEPARTMENT OF JUSTICE
UNITED STATES PAROLE COMMISSION

Washington, D.C. 20537

NOTICE OF ACTION

Name—Hugh J. Addonizio

Register Number—75033-158

Institution—Lewisburg

In the case of the above-named the following action with regard to parole, parole status, or mandatory release was ordered:

Continue for Regular Review Hearing in December 1977.

(Reasons for continuance or revocation)

(Conditions or remarks)

Your offense behavior has been rated as very high severity. Your salient factor score is 11. You have been in custody a total of 57 months at time of hearing. Guidelines established by the Commission for adult cases which consider the above factors suggest a range of 26-36 months to be served before release for cases with good institutional adjustment. After careful consideration of all relevant factors and information presented, a decision above the guidelines appears warranted because your offense was part of an ongoing criminal conspiracy lasting from 1965 to 1968, which consisted of many separate offenses committed by you and approximately 14 other co-conspirators.

As the highest elected official in the City of Newark, you were convicted of an extortion conspiracy in which, under color of your official authority, you and your co-conspirators conspired to delay, impede, obstruct, and otherwise thwart construction in the City of Newark in order to obtain a percentage of contracts for the privilege of working on city construction projects.

Because of the magnitude of this crime (money extorted totalling approximately \$241,000), its economic effect on innocent citizens of Newark, and because the offense in-

volved a serious breach of public trust over a substantial period of time, a decision above the guidelines is warranted. Parole at this time would depreciate the seriousness of the offense and promote disrespect for the law.

Appeals procedure: You have a right to appeal a decision as shown below. Filing the appeal is your responsibility which others cannot perform for you. Forms for that purpose may be obtained from your caseworker, or the Regional Office of the Commission, and must be filed with the Commission within thirty days of the date this Notice was sent.

- A. *Decision of a Hearing Examiner Panel.* Appeal may be made to the Regional Commissioner.
- B. *Decision of the National Commissioners when referred to them for reconsideration.* Appeal may be made to the Regional Commissioner.
- C. *Decision of the Regional Commissioner.* Appeal may be made to the National Appeals Board.
- D. *Decision of National Commissioners in cases where they assumed original jurisdiction.* Appeal may be made to the entire Commission.
- E. *Decision of a Regional Commissioner relative to Parole condition or continuance under supervision.* Appeal may be made to the National Appeals Board.

Copies of this notice are sent to your institution and/or your probation officer. In certain cases copies may also be sent to the sentencing court. You are responsible for advising any others to whom you might wish to make information on this form available.

January 13, 1977
(Date Notice sent)

National Commissioners
(Region) (NAB) (Nat. Dir.)

NFB
(Docket Clerk)

INMATE COPY

[SEAL]

July 11, 1975

UNITED STATES DEPARTMENT OF JUSTICE
UNITED STATES PAROLE COMMISSION

Washington, D.C. 20537

NOTICE OF ACTION

Name—Hugh J. Addonizio

Register Number—75033-158

Institution—Lewisburg

In the case of the above-named, the Board has carefully examined all the information at its disposal and the following action with regard to parole, parole status, or mandatory release was ordered:

Continue for Institutional Review Hearing in January 1977.

Reasons for denial, continuance or revocation:
(Use separate sheet if necessary)

Conditions or remarks: REASONS: Your offense behavior has been rated as very high severity. You have a salient factor score of 11. You have been in custody a total of 39 months. Guidelines established by the Board for adult cases which consider the above factors indicate a range of 26-36 months to be served before release for cases with good institutional program performance and adjustment. After careful consideration of all relevant factors and information presented, it is found that a decision outside the guidelines at this consideration appears warranted because the offense was part of a large scale or organized criminal conspiracy. Further, the offense behavior consisted of multiple separate offenses.

Appeals procedure: You have a right to appeal a decision as shown below. Forms for that purpose may be obtained from your caseworker, and must be filed with the Chief,

Classification and Parole, (or his equivalent) within thirty days of the date this Notice was sent.

- A. *Decision of a Hearing Examiner Panel.* Appeal may be made to the Regional Director.
- B. *Decision of the National Appellate Board referred to it for reconsideration.* Appeal may be made to the Regional Director.
- C. *Decision of the Regional Director.* Appeal may be made to the National Appellate Board.
- D. *Decision of Regional Directors in cases where they assumed original jurisdiction.* Appeal may be made to the National Appellate Board.

/s/ [Illegible]

July 8, 1975
(Date Notice sent)

(Region—Specify)

NFB
(Docket Clerk)

National Appellate Board—XXX
(Check)

INMATE COPY

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

Cr. 548-69

UNITED STATES OF AMERICA

vs.

HUGH J. ADDONIZIO, DEFENDANT.

NOTICE OF MOTION PURSUANT TO TITLE 28
U.S.C. 2255 TO VACATE AND SET ASIDE
SENTENCE AND TO CORRECT SENTENCE
TO TIME ALREADY SERVED

TO: HONORABLE JONATHAN L. GOLDSTEIN
United States Attorney for the
District of New Jersey
Federal Square
970 Broad Street
Newark, New Jersey 07101

SIR:

PLEASE TAKE NOTICE, that at 10:00 in the forenoon on Monday, November 15, 1976, or as soon thereafter as counsel may be heard, the undersigned attorneys for defendant, Hugh J. Addonizio, shall move before the Honorable George H. Barlow at the United States Court House, Trenton, New Jersey, for an order pursuant to Title 28, U.S.C. § 2255 vacating and setting aside the ten-year sentence imposed upon defendant Hugh J. Addonizio in September 1970 and correcting the sentence so that the same shall be for the period of time already served.

PLEASE TAKE FURTHER NOTICE, that counsel shall rely upon the Memorandum submitted herewith.

HELLRING, LINDEMAN, LANDAU
& SIEGAL
Attorneys for Defendant,
HUGH J. ADDONIZIO

By: /s/ Michael Edelson
MICHAEL EDELSON
A Member of the Firm

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

Cr. 548-69

UNITED STATES OF AMERICA,

vs.

HUGH J. ADDONIZIO, ET AL, DEFENDANTS.

AFFIDAVIT OF HUGH J. ADDONIZIO

STATE OF PENNSYLVANIA)
)
) ss.:
COUNTY OF)

HUGH J. ADDONIZIO, of full age, being duly sworn according to law upon his oath, deposes and says:

1. I am the defendant in the within case and make this affidavit in support of the motion brought on my behalf before Your Honor pursuant to Title 18 U.S.C. § 2255 for vacation of my sentence and correction to time already served.

2. The motion was argued before Your Honor on November 15, 1976. At the time of the argument of the motion Your Honor was advised that my initial parole application had been denied, that all appeals to the Parole Commission affirmed the denial of parole, and that the Parole Commission had set January 1977 as the date when I would be eligible for my next institutional hearing. A copy of a letter dated March 1, 1976 from Joseph Nardoza, Regional Director of the United States Board of Parole to my counsel advising that my case was continued for an institutional review hearing in January 1977 is attached hereto as Exhibit "A".

3. The institutional review hearing, in fact, took place on December 8, 1976. At that time I was simply advised by the two hearing officers that they had no authority to grant my application for parole since I am designated a "central monitoring" case. I have recently

received official notice of the action taken on December 8, which notice is dated December 23, 1976, and states: "Designated as original jurisdiction and referred to National Commissioners for decision." A copy of that notice is attached to this affidavit as Exhibit "B".

4. Exhibits attached to the memorandum originally submitted by my counsel in support of the motion argued on November 15, 1976 show that the Parole Commission advised me of this new "central monitoring" designation at approximately the same time the Honorable R. Dickson Herman ordered removal from my file of the previous "special offender" designation.

5. I believe that the action taken on December 8, 1976 by the hearing officers means that I will not be released for at least approximately four months even in the event that the National Commissioners rule favorably on my application once the same comes to them for review.

6. In a letter dated April 27, 1976 to my counsel, which was attached as Exhibit 6 to the original memorandum in support of the motion returnable November 15, 1976, I explained my understanding that the new classification of "central monitoring" meant that despite the fact that I am now at the Farm Dorm and technically classified minimum security, I nevertheless do not have the privileges which would ordinarily be available to one with my institutional record and a classification of minimum security. The privileges which are not afforded to me include the right to social furloughs.

7. In addition, I think Your Honor should be aware that there was a further change in my rights and privileges which occurred the week of November 15, 1976, immediately after my motion under Title 18 U.S.C. § 2255 was argued. Up until that time inmates at the Farm Dorm, where I am incarcerated, were allowed visitors seven days a week. While visitation continues on a seven day per week schedule at all other facilities of the Lewisburg Penitentiary, visitation for inmates at the Farm Dorm has now been restricted to weekends only unless special permission for a weekday visit has been granted two weeks in advance of the visit and then only if a guard is present to cover.

8. After now having spent almost five years in prison, having (I am informed) an excellent institutional behavior record, having been finally transferred from the main prison facility (medium security) to the Farm Dorm and technically classified minimum security; I am, nevertheless, in the position of having the privileges ordinarily afforded to minimum security prisoners denied to me and, in fact, am more restricted in regard to the right to receive visitors than minimum security inmates since I am allowed visitors only two days a week while medium security inmates are allowed visitors seven days a week.

9. I am making this affidavit at this time so that Your Honor will be aware of the events which have transpired since the argument of my motion on November 15, 1976, and upon the belief that those events provide additional reasons for the granting of my motion.

/s/ Hugh J. Addonizio
HUGH J. ADDONIZIO

Sworn to and subscribed before
me this 6 day of January, 1977.

/s/ [ILLEGIBLE]
Parole Officer—Authorized by
Act of July 7, 1955, to admin-
ister oaths (18 U.S.C. 40041)

EXHIBIT A

UNITED STATES DEPARTMENT OF JUSTICE
UNITED STATES BOARD OF PAROLE
Scott Plaza II
Sixth Floor
Industrial Highway
Philadelphia, Pennsylvania 19113

March 1, 1976

Michael Edelson, Esq.
HELLRING, LINDEMAN & LANDAU
Counsellors at Law
1180 Raymond Boulevard
Newark, New Jersey 07102

Re: Hugh J. Addonizio
Reg. No. 75033-158

Dear Mr. Edelson:

Please be advised that pursuant to your request, the U. S. Board of Parole, after careful and thorough review, have voted to make no change in the July 8, 1975 order continuing Mr. Addonizio's case for an institutional review hearing in January 1977.

Since this case was reopened by me under authority of the Code of Federal Regulations, Sections 2.17 and 2.28, no Notice of Action is being forwarded to Mr. Addonizio. However, he has been advised of the final decision by a telephone call on February 24, 1976 to the Lewisburg penitentiary.

I am taking the liberty of sending a copy of this letter to Mrs. Addonizio at her residence and to Mr. Addonizio at the institution.

Sincerely,

/s/ Joseph A. Nardoza
JOSEPH NARDOZA
Regional Director

EXHIBIT B

[SEAL]

December 23, 1976

UNITED STATES DEPARTMENT OF JUSTICE
 UNITED STATES PAROLE COMMISSION
 Washington, D.C. 20537

Notice of Action

Name—Hugh J. Addonizio

Register Number 75033-158

Institution—Lewisburg

In the case of the above-named the following action with regard to parole, parole status, or mandatory release was ordered.

DESIGNATED AS ORIGINAL JURISDICTION AND REFERRED TO NATIONAL COMMISSIONERS FOR DECISION.

(Reasons for continuance or revocation)
 (Conditions or remarks)

REASONS: Pursuant to CFR 2.17 your offense behavior was part of a large scale criminal conspiracy or a continuing criminal enterprise.

Appeals procedure: You have a right to appeal a decision as shown below. Filing the appeal is your responsibility which others cannot perform for you. Forms for that purpose may be obtained from your caseworker, or the Regional Office of the Commission, and must be filed with the Commission within thirty days of the date this Notice was sent.

- A. *Decision of a Hearing Examiner Panel.* Appeal may be made to the Regional Commissioner.
- B. *Decision of the National Commissioners when referred to them for reconsideration.* Appeal may be made to the Regional Commissioner.

- C. *Decision of the Regional Commissioner.* Appeal may be made to the National Appeals Board.
- D. *Decision of National Commissioners in cases where they assumed original jurisdiction.* Appeal may be made to the entire Commission.
- E. *Decision of a Regional Commissioner relative to Parole condition or continuance under supervision.* Appeal may be made to the National Appeals Board.

Copies of this notice are sent to your institution and/or your probation officer. In certain cases copies may also be sent to the sentencing court. You are responsible for advising any others to whom you might wish to make information on this form available.

Dec. 22, 1976
 (Date Notice sent)

Northeast
 (Region) (NAB) (Nat. Dir.)

mlc
 (Docket Clerk)

INMATE COPY

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

Cr. 548-69

UNITED STATES OF AMERICA,

vs.

HUGH J. ADDONIZIO, ET AL, DEFENDANTS.

AFFIDAVIT OF HUGH J. ADDONIZIO

STATE OF PENNSYLVANIA)

) ss.:

COUNTY OF)

HUGH J. ADDONIZIO, of full age, being duly sworn according to law upon his oath, deposes and says:

1. I am making this affidavit in support of my motion pending before Your Honor for a vacation of my sentence and correction to time already served, and to supplement my affidavit dated January 6, 1977, which I understand has been filed with Your Honor.

2. I had my institutional review hearing for parole on December 8, 1976. When I walked into the hearing room, the hearing examiner said to me:

"We don't really have any questions for you—with you it's not a question of rehabilitation, it is only a question of how long they want you to stay here."

(While the preceding is not a direct quotation, it is my best recollection and accurately sets forth the meaning of what I was told.)

4. The usual emergency furlough (serious illness or death in the family) at the Farm Dorm where I am incarcerated is for five or six days with no prison personnel as an escort. This summer when my mother, who has been seriously ill for some time, took a drastic turn for the worse, I was finally granted permission for an emergency furlough. The conditions imposed upon me, however, were that the furlough had to take a total of no

more than twelve hours, including travelling time (approximately six hours), that I had to be accompanied by a prison escort, and that I had to bear the expense both of the trip for the escort and myself and also of the overtime salary for the escort. I am informed that this was the very first time that conditions such as the ones which were imposed upon me were imposed upon any inmate from the Farm Dorm who was given a furlough. I was also told at the time that the furlough was granted that it probably meant I would not get any additional furlough within a short period of time no matter what the circumstances. In other words, I was told that if my mother died I would not be given an additional furlough to attend the funeral.

5. I would like the Court also to be aware of the fact that Gordon Liddy of Watergate fame has just received a transfer to Allenwood (the nicest facility at Lewisburg) even though Mr. Liddy is not eligible for parole until 1981. I have been attempting to get a transfer to Allenwood since I first came to Lewisburg without success.

/s/ Hugh J. Addonizio
HUGH J. ADDONIZIO

Sworn to and subscribed before me
this 8th day of January, 1977.

/s/ [ILLEGIBLE]

Parole Officer—Authorized by
Act of July 1955, to administer
oaths (18 U.S.C. 40041)

UNITED STATES DISTRICT COURT
FOR THE MIDDLE OF PENNSYLVANIA

UNITED STATES OF AMERICA, EX REL
HUGH J. ADDONIZIO, No. 75033-158, PETITIONER,
vs.

FLOYD E. ARNOLD, Warden of the Federal Penitentiary
at Lewisburg, Pennsylvania, RESPONDENT.

PETITION FOR WRIT OF HABEAS CORPUS
AND PETITION FOR WRIT OF MANDAMUS

TO THE UNITED STATES DISTRICT COURT FOR
THE MIDDLE DISTRICT OF PENNSYLVANIA:

FIRST COUNT

Your petitioner respectfully shows:

1. I am incarcerated at the Federal Penitentiary in Lewisburg.
2. My sentence was imposed by the United States District Court for the District of New Jersey, Trenton, New Jersey, by the Honorable George Barlow.
3. The docket number of the case was Cr. No. 548-69. The indictment bears no number.
4. Sentence was imposed on September 22, 1970 of commitment to the custody of the Attorney General of the United States for ten years and payment of a fine of \$25,000.00.
5. A finding of guilty was made after a plea of not guilty.
6. The finding of guilty was made by a jury.
7. Appeal was taken from the judgment of conviction.
8. (a) The appeal was taken to the United States Court of Appeals for the Third Circuit. Petition was then filed for a rehearing by the Third Circuit Court of Appeals en banc. Petition for Certiorari was then filed in the United States Supreme Court and a Petition for Rehearing subsequently was filed.

(b) The United States Court of Appeals for the Third Circuit affirmed the judgment below on September 16, 1971, and denied the Petition for Rehearing on November 9, 1971. The United States Supreme Court denied the Petition for Certiorari on February 22, 1972, and denied the Petition for Rehearing on April 3, 1972. The citation to the opinion of the Court of Appeals for the Third Circuit is 451 F. 2d 49 (1972). The citation for the denial for the Petition for Certiorari is 405 U.S. 936, 30 L.Ed. 812, 92 Sup. Ct. 949. The citation for the denial of the application of rehearing for Petition of Certiorari is 405 U.S. 1048, 31 L.Ed.2d 591, 92 Sup. Ct. 1309.

9. The following are the grounds upon which I base my allegation that I am being held in custody unlawfully:

Based upon the decisions of *Catalano v. United States*, 383 F. Supp. 346 (D.Conn. 1974) and the opinion of this Court by the Honorable William J. Nealon, Jr. of July 7, 1975, in the case of *Raia v. Floyd E. Arnold*, Warden United States Penitentiary at Lewisburg, Pennsylvania, I have been denied due process of law under the Due Process Clause of the Fifth Amendment of the United States Constitution by virtue of the fact that I have been classified a "special offender" without prior notice of the classification, without reasons for the classification having been furnished to me and without a hearing as required by the Catalano and Raia opinions having been held.

10. The facts upon which the above grounds are based are as follows:

I learned of the special offender designation on my file when I first made application for transfer from the main facility at Lewisburg to the Farm Dorm or Allenwood, the minimum security facilities at Lewisburg. I was advised then that while my record at the prison to the point of making the application, my background and the other facts which would have generally been considered on such an application were all favorable, that I could not be transferred to a minimum security facility

because I was designated a special offender. During my period of incarceration both of my daughters were married and prior to each marriage I made application for a social furlough to attend the weddings. On each such occasion, permission for a social furlough was denied and I was again advised that the special offender classification was the reason for the denial. From time to time other inmates with longer sentences than mine were granted privileges to leave the prison walls for certain occasions but I was denied similar privileges, again because of the special offender designation.

On July 3, 1975, I first became eligible for parole having served a full one-third of my sentence. I was advised by my case worker and work supervisor that my prison record was an excellent one. I was also aware that I had served more time than required under the Parole Board's guidelines for the offense of which I was convicted and also that I had the highest possible score on the salient factor quotient. All of this was confirmed to me by the two members of the Parole Board who conducted my parole hearing at Lewisburg on June 2, 1975. Nevertheless, the members of the Parole Board conducting the hearing at Lewisburg indicated that because of the special offender designation on my file that they would decline to rule on my application and would forward the application for consideration to the Regional office in Philadelphia. I was then informed that the Regional office in Philadelphia had forwarded the matter to the National Board in Washington. Despite the fact that I had the highest possible score on the salient factor quotient and despite the fact I had already served more time than the Parole Board's guidelines would require in the ordinary case, the three members of the National Board denied my application on July 8, 1975 and set a new date for parole eligibility of January 1977.

I have been informed that the disposition of the three members of the National Board may be appealed by me to the full Board and that a hearing on the appeal will be had on July 30, 1975.

11. I have not previously filed a Petition for Habeas Corpus nor have I made a motion pursuant to Title 28

Section 2255 of the United States Code. The motions as described in the next paragraph were filed on my behalf. In addition, requests for administrative relief were filed by me also as set forth in the next paragraph.

12. (a) A motion pursuant to Rule 35 of the Federal Rules of Criminal Procedures was filed with the United States District Court for the District of New Jersey on May 15, 1972 for reduction of sentence, for sentence under Title 18 U.S.C. Section 4208(a), and for correction of illegal sentence. The challenge to the legality of the sentence involved the monetary fine of \$25,000 which was imposed as part of a general sentence where maximum monetary fine permitted for a violation of Title 18 U.S.C. Section 1951 is \$10,000. That motion was denied on June 5, 1972.

(b) A further motion was filed with the United States District Court for the District of New Jersey on September 14, 1973, for revision of my sentence pursuant to Title 18 U.S.C. Section 4208(a) to designate a minimum term at the expiration of which I would be eligible for parole. At the time of oral argument on that motion, my counsel also requested that the Court require removal of the special offender designation from my file. That motion was denied on April 4, 1974. In regard to the request for removal of the special offender designation, Judge Barlow in a letter to me stated that he had no jurisdiction to modify administrative determinations of the Bureau of Prisons.

(c) On November 8, 1974, I filed a request for removal of the "special offender" designation on my file directed to the Warden of Lewisburg on Form DIR-9. I received a response denying the request dated November 13, 1974.

(d) On November 15, 1974, I filed an appeal from the denial of my request for administrative remedy to the Director, Bureau of Prisons, on Form DIR-10. The appeal was denied by response dated December 30, 1974.

(e) On January 2, 1975, I filed an appeal to the Assistant Director, General Counsel and Review, on Form DIR-11. That appeal was denied by response dated February 4, 1975. Copies of Forms DIR-9, 10 and 11 are at-

tached hereto as Exhibits "A", "B", and "C", respectively.

13. I believe my remedy by way of motion under Title 28 Section 2255 of the United States Code is inadequate to test the legality of my detention since it is my understanding that a motion brought under that section must be addressed to the question of the validity of the imposition of the original sentence or the underlying conviction and not to a violation of due process rights occurring subsequent to the imposition of sentence.

14. I was represented by an attorney throughout every stage of the court proceedings leading to my conviction and incarceration.

15. The name and address of the law firm which represented me is Hellring, Lindeman & Landau, 1180 Raymond Boulevard, Newark, New Jersey.

WHEREFORE, petitioner respectfully prays that upon this application I be brought before this Court and this Court require production of my file being maintained by respondent at the United States Penitentiary at Lewisburg, Pennsylvania.

Petitioner further prays that upon his application a writ of habeas corpus be issued for the purpose of inquiring into the detention and restraint of petitioner and upon hearing and determination the special offender designation on your petitioner's file be found to be a violation of my constitutional right to due process under the Fifth Amendment and, accordingly, that my detention, as a result of the denial of my application for parole based upon the special offender designation, be found unlawful and that your petitioner be released from the custody of respondent.

SECOND COUNT

1. By this Second Count of this petition, your petitioner seeks the extraordinary relief by writ of mandamus pursuant to Title 28 U.S.C. Section 1361, requiring that the "special offender" designation on my file be removed and not be used in any manner or form by the

Bureau of Prisons or the Board of Parole until such time as a hearing is conducted and the due process procedures as set forth in the case of *Catalano v. United States*, 383 F. Supp. 346 (D. Conn. 1974) and the opinion of this Court in *Raia v. F. E. Arnold* are complied with by respondent.

2. Your petitioner repeats the statements set forth in Paragraphs 1 through 15 of the First Count of this petition with the same force and effect as if set forth herein at length.

3. Based upon the authority cited in this petition and in the memorandum of law submitted by counsel in support of this petition, I believe that my due process rights under the Fifth Amendment of the Constitution of the United States have been violated by the action of the Bureau of Prisons in classifying me a special offender without a hearing and without following the procedures outlined in the cited cases.

4. The special offender designation on my file has in fact, resulted in a denial to me of various privileges at the Federal Penitentiary in Lewisburg for which I would have been eligible but for the special offender designation.

5. The special offender designation on my file in addition resulted in a delay of a determination on my application for parole and I truly believe that it was the basis for the action of the three members of the National Board in denying the application.

6. I further believe that without an order of this Court requiring removal of the special offender designation from my file that the same will be considered on the appeal of my parole application to the full Board which I am informed will be heard on July 30, 1975.

WHEREFORE, your petitioner prays that the respondent be ordered to remove all "special offender" classification notations from all of my records and files in the Bureau of Prisons and that the "special offender" designation not be used in any manner or form by the Bureau or the Board of parole until and unless the respondent holds a hearing which fully conforms to the due process procedures set forth in *Catalano v. United States, supra*,

and *Raia v. F. E. Arnold*; and more particularly that an order issue to the National Parole Board that the "special offender" designation on petitioner's file may not be considered by it in any way or manner in its deliberations at the hearing on your petitioner's appeal from the denial of my application for parole by the three members of the Parole Board.

Respectfully submitted,

MICHAEL EDELSON, ESQUIRE
HELLRING, LINDEMAN & LANDAU
1180 Raymond Boulevard
Newark, New Jersey 07102

By: /s/ Louise O. Knight
LOUISE O. KNIGHT
CLEMENT & KNIGHT
113 Market Street
Lewisburg, Pa. 17837

EXHIBIT A

FEDERAL BUREAU OF PRISONS REQUEST FOR ADMINISTRATIVE REMEDY

To: _____ Warden of Institution
_____ Director, Bureau of Prisons

From: ADDONIZIO, HUGH J.
75033-158-G
Lewisburg, Pa.

Part A—INMATE REQUEST

On numerous occasions I have requested to be transferred to the 'farm and/or Allenwood'. I have been told that due to the "S.O." classification that this institution has me classified under, that any transfer is impossible.

Why am I classified as a "S.O." offender, and with my clear and excellent institutional record, *why* can't I be transferred as requested.

I request that the "S.O." classification be rescinded as unfounded and that I immediately be reviewed for transfer to the above cited facilities, or written reason be supplied me in regard to any denial.

Date—November 9th, 1974

/s/ Hugh J. Addonizio
HUGH J. ADDONIZIO

Part B—RESPONSE

The term "S.O." (Special Offender) is used as a method to keep track of inmate movement within the Bureau of Prisons for various reasons, i.e. separate from codefendants, publicity reasons, etc. Your offense was certainly bestowed with great publicity and notoriety. This is not a bar necessarily from minimum custody or transfer to a farm. You were denied custody and LFC because you

have too much time remaining on your sentence at this time.

Date—11-13-74

/s/ W. M. Kennedy, Chief, CM
W. M. KENNEDY, CHIEF, CM
Department Head or
Representative

/s/ G. I. Canster, AWIP
G. I. CANSTER, AWIP
Warden, Director, or
Associate

SECOND COPY: To be returned to the offender after completion.

Return to:

I acknowledge receipt this date of a complaint from the above inmate in regard to the following subject:

#127

Requirement for submission of this request directly to the Director, Bureau of Prisons.

When the offender feels that he may be adversely affected by submission of this request at the institution level because of the sensitive nature of the complaint, he may address his complaint to the Director through the Prisoners' Mail Box. He must clearly indicate a valid reason for not initially bringing his complaint to the attention of the institution staff.

If the offender does not provide a reason, or if the Director or his designee feels that the reason supplied is not adequate, the complaint will be returned to the offender for processing at the institution level.

EXHIBIT B

PMB
Nov. 25, 1974

FEDERAL BUREAU OF PRISONS APPEAL RESPONSE FOR ADMINISTRATIVE REMEDY REQUEST

To: Director, Bureau of Prisons
From: ADDONIZIO, HUGH J.
75033-158
Lewisburg, Pa.

*Part A—REASON FOR APPEAL:

The response on DIR 9 is *inadequate* and is in violation of recent court decisions.

See: *Catalano vs. U.S.*, 16 CrL 2096; *Masello vs. Norton*, 364 F. Supp. 1133.

There is no reason why with my institutional record that I could not be transferred to the farm and/or Allenwood, as I can name many residents that have been transferred to either facility with more time left remaining on their sentence than I have, and who are just as, or more publicized than my case has been, including the 'Water-gate' members, who I'm sure you must agree had their share of headlines. I am also going before the Parole Board in a few months.

I request that the S.O. designation be immediately removed from my record, and that I immediately be reconsidered for transfer to the 'farm or Allenwood'.

If the response to this appeal is not adequate, I will have my retained counsel seek immediate court relief, with reference to the above cited cases, and the continued prejudice shown to just 'certain residents' of this institution.

Date—November 15th., 1974

/s/ Hugh J. Addonizio
HUGH J. ADDONIZIO

- * The Completed Form No. BP-DIR-9 Must Accompany This Appeal.

Part B—RESPONSE

Your designation as a special offender has been carefully reviewed. The official records investigation reflect that you were a known associate of persons who were connected with organized criminal activity, and therefore your designation as a special offender is appropriate under the guidelines of Policy Statement 7900.47, para. 5(2).

Custody classifications are the responsibility of each institution. Factors that the institution consider include length of sentence, which in your case is 10 years and parole eligibility. Your classification as a medium custody inmate does not appear to have been an arbitrary decision. Absent a showing of arbitrariness, I will not mandate a change in custody. You can be assured however that the institution will continually monitor your custody and classification and will make changes when appropriated.

Date—12-30-74

/s/ E. O. Toft
E. O. TOFT

ORIGINAL: To be returned to offender after completion.

EXHIBIT C

PMB
Jan. 8, 1975

**FEDERAL BUREAU OF PRISONS
CENTRAL OFFICE APPEAL
RESPONSE FOR ADMINISTRATIVE
REMEDY REQUEST**

To: Assistant Director, General Counsel and Review
From: ADDONIZIO, HUGH J.
75033-158
Lewisburg, Pa.

*** Part A—REASON FOR APPEAL:**

The responses on DIR 9 & 10 are inadequate and misdirected. I indeed agree that the designation of classification is the responsibility of each institution. The point in this appeal, so far disregarded is not can I be classified as a 'special offender' but rather the manner in which this classification was accomplished in direct violation of the cases cited in my DIR 10. I was not afforded any notice and/or hearing prior to this classification and this is a violation of my due process rights. Unless this order is rescinded and my record corrected that delectates the 'special offender' status I will immediately have my retained counsel seek the appropriate court relief. My argument is not that you can or cannot classify me as a 'special offender', but in the illegal manner that it was done. I also remind you, that mere association is not proof of any guilt, as stated and decided by *Nassif vs. United States*, 370 F.2d 147, 153.

Date—Jan. 2nd., 1975

/s/ Hugh J. Addonizio
HUGH J. ADDONIZIO

- * The Completed Forms No. BP-DIR-9 and BP-DIR-10 Must Accompany This Appeal.

Part B—RESPONSE

We have reviewed your appeal regarding the issue of your classification as a Special Offender and your claim that you were denied due process prior to this classification. On the merits, we find that a reasonable basis exists for the determination that you are properly classified as a Special Offender pursuant to Policy Statement 7900.47 (4-30-74). Your offense clearly involved sophisticated criminal activity of an organized nature, and you associated with individuals involved in organized criminal activity. Further, yours was a case of great notoriety. Your complaint with respect to the procedures employed is apparently based upon several decisions by the United States District Court for the District of Connecticut. The procedures set forth by that Court are the subject of an appeal to the Court of Appeals for the 2nd Circuit. Inasmuch as these decisions do not control in the Middle District of Pennsylvania and the matter is yet to be resolved, we are adhering to general Bureau policy throughout the system. Thus, at present there is no requirement for notification to the inmate nor for a hearing under the Administrative Remedy Procedure. Accordingly, we affirm the response by the Warden and by the Regional Director in your case.

Date—February 4, 1975

/s/ Eugene N. Barkin
EUGENE N. BARKIN
 Assistant Director, General
 Counsel and Reviewer

ORIGINAL: To Be Returned to Offender After Completion.

**UNITED STATES DISTRICT COURT
 DISTRICT OF NEW JERSEY**

Civil Action No.

HUGH J. ADDONIZIO, PLAINTIFF,

vs.

**FLOYD E. ARNOLD, Warden of Federal Penitentiary
 at Lewisburg, DEFENDANT.**

**AFFIDAVIT IN SUPPORT OF
 PETITION FOR HABEAS CORPUS**

STATE OF PENNSYLVANIA)
) ss.:
 COUNTY OF)

HUGH J. ADDONIZIO, of full age, being duly sworn according to law upon his oath, deposes and says:

1. I am presently an inmate at the Farm Dorm facility of Lewisburg Federal Penitentiary. I was just transferred to the Farm Dorm from the main facility at Lewisburg on 1975.

2. On March 6, 1972, I surrendered myself to the U.S. Marshall in Newark, New Jersey, to begin serving a ten year sentence imposed by the United States District Court for the District of New Jersey, following my conviction under Title 18 U.S.C. § 1951.

3. I was first taken to the Federal Penitentiary in Atlanta, Georgia, and remained there a little over a month before transfer to Lewisburg. I have now served forty months of my sentence and first became eligible for parole on July 3 of this year.

4. During my incarceration at the main facility, I had made several requests for transfer to the minimum security facilities at the Farm Dorm or Allenwood. When I first made such an application, my case worker told me that transfer to a minimum security facility was impos-

sible because I was classified as a "special offender". This was despite the fact that my prison record and the other factors generally considered on applications for transfer to minimum security facilities would have indicated that my application should have been granted.

5. During my period of incarceration, both of my daughters have been married and prior to the marriage of each, I made application for a social furlough to attend the weddings. Both of these applications were denied and I was again advised that the reason was my "special offender" designation. Other privileges, such as the opportunity to attend various events outside the prison walls, were also denied to me because of my special offender status.

6. I had been given no prior notice that I had been classified a "special offender" and have not been given to this date any specific reason for the classification.

7. On June 2, 1975, I had a parole hearing before two members of the Parole Board at Lewisburg. At that time, what I had been previously told by my case worker and by my work supervisor at the prison was confirmed; that my record at the prison had been an excellent one and that all reports from the prison concerning my conduct and attitude had been highly favorable.

8. The two members of the Parole Board who were at Lewisburg for the hearing further confirmed to me that I had the highest possible score on the salient factor quotient (which I understand to be the Parole Board rating system for granting of parole) and that I had further already served more time than is set forth in the Parole Board's guidelines for the offense of which I was convicted.

9. Nevertheless, apparently because of the special offender designation on my file, the two members who conducted the hearing at Lewisburg declined to rule on my application and referred the matter to the regional office of the Parole Board in Philadelphia.

10. I was then advised that the Regional Board in Philadelphia further declined to make a ruling on my application and the same was sent to the National Board in Washington. On July 8, 1975, three members of the

National Board in Washington denied my application for parole and set January 1, 1977 as the next date upon which I could file an application for parole.

11. I have now been advised that the special offender designation on my file makes the salient factor quotient and the Parole Board's own guidelines on parole inapplicable in my case and, accordingly, constitutes a basis for my application having been denied.

12. All other facts set forth in the associated Petition for Writ of Habeas Corpus and Petition for Writ of Mandamus are true and correct to the best of my knowledge, information and belief.

13. I submit this affidavit in support of the petition for habeas corpus being filed on my behalf on the grounds that the special offender designation on my file violates the Due Process Clause of the Fifth Amendment.

/s/ Hugh J. Addonizio
HUGH J. ADDONIZIO

Sworn to and subscribed before me
this 14th day of July, 1975.

/s/ [ILLEGIBLE]

UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

Civil No. 75-856

[Filed May 3, 1976]

UNITED STATES OF AMERICA, ex rel.
HUGH J. ADDONIZIO, PETITIONER

v.

FLOYD E. ARNOLD, Warden, Federal Penitentiary,
Lewisburg, Pennsylvania, RESPONDENT

ORDER

AND NOW, this 3d day of May 1976, IT IS ORDERED that the respondent remove all "special offender" notations from petitioner's records and files in the Bureau of Prisons.

IT IS FURTHER ORDERED that respondent refrain from redesignating petitioner a "special offender" until such time as he is afforded a hearing on conformance with the due process procedures set forth in RAIA v. ARNOLD, Civil No. 75-25 (M.D. Pa., filed July 7, 1975).

In all other respects the petition is denied.

BY THE COURT

/s/ R. Dixon Herman
R. DIXON HERMAN
United States District Judge

February 3, 1976

Joseph Nardoza, Regional Director
United States Board of Parole
Northeast Region
Scott Plaza II, Sixth Floor
Industrial Highway
Tinicum Township
Philadelphia, Pennsylvania 69113

Re: *Hugh J. Addonizio*

Dear Mr. Nardoza:

We represent Hugh J. Addonizio who is presently an inmate at the Farm Dorm of the Lewisburg Federal Penitentiary. Mr. Addonizio surrendered to the custody of the United States Marshal to begin serving his ten-year sentence on March 6, 1972. He first became eligible for parole in early July 1975. His application was denied and a new date for hearing was set for January 1977. Mr. Addonizio's appeals to three members of the National Board in Washington and then to the full National Board in Dallas in October 1975 were denied, and the new date for his eligibility, January 1977, was affirmed.

Eligible at the same time for parole was Anthony LaMorte, a co-defendant in the same case as Mr. Addonizio. Mr. LaMorte's parole application followed the same course as Mr. Addonizio's except that the full Board in Dallas changed Mr. LaMorte's next hearing date from January 1977 to April 1976.

We have seen an article in the *Newark Star Ledger* of Tuesday, January 27, 1976, which announces that the United States Board of Parole has granted Mr. LaMorte parole effective April 5, 1976. The article indicates that the ruling was the result of the cause having been reopened by you as Regional Director. The article further recites that another co-defendant of Mr. Addonizio, Joseph Biancone, had previously been granted parole effective March 10, 1976.

I called your office on January 29 to see whether I could ascertain on what basis the cases of Mr. LaMorte and Mr. Biancone were apparently reopened by your office, without similar consideration having been given to Mr. Addonizio. I was advised that Mr. LaMorte's file was in California, that you were out of the office, and that nobody in the office had any information as to why Mr. LaMorte's case had been reopened.

At the time of Mr. Addonizio's original parole hearing before the two hearing officers in Lewisburg, during the time his appeal was pending in Washington, and at the appeal before the National Board in Dallas, it was confirmed to me that Mr. Addonizio's prison record was exemplary, that he had earned all the good time credits he possibly could, that his salient factor quotient score was the highest attainable, and that he had already served more time than the parole board's own guidelines required. When the three members of the National Board in Washington denied Mr. Addonizio's parole application, we were originally told that his right to appeal before the Full Board could be heard at the Full Board's meeting which was scheduled prior to the October meeting. We were then subsequently told that Mr. Addonizio's appeal would not be considered until October. One of the principal reasons for the delay until the October meeting, we were told, was that Mr. LaMorte's appeal had not been timely filed for hearing at the meeting prior to October and that since Mr. LaMorte and Mr. Addonizio were co-defendants, the parole board intended to keep them on the same hearing schedule.

I spoke with Mr. Newman of your office on Wednesday, January 28. He was unable to tell me why Mr. LaMorte's case had been reopened by your office without similar consideration having been afforded to Mr. Addonizio. He was further unable to advise me of what procedure is followed by your office in reaching a decision to reopen a case. Mr. Newman suggested that I communicate with you concerning my inquiries. When I called your office again on January 29, I was advised that you do not speak to attorneys.

In view of the time already served by Mr. Addonizio, his outstanding record while in prison, and now the granting of parole to two co-defendants who had received the same sentence as Mr. Addonizio; we believe, at a minimum, Mr. Addonizio's case is entitled to the same consideration given to Mr. LaMorte's case. We would appreciate being advised of the criteria used by you in reopening the LaMorte case and as to why those same criteria are not equally applicable to the Addonizio case.

Very truly yours,

ME:dl

UNITED STATES DEPARTMENT OF JUSTICE
UNITED STATES BOARD OF PAROLE

Scott Plaza II
Sixth Floor
Industrial Highway
Philadelphia, Pennsylvania 19113

March 1, 1976

Michael Edelson, Esq.
HELLRING, LINDEMAN & LANDAU
Counsellors at Law
1180 Raymond Boulevard
Newark, New Jersey 07102

Re: Hugh J. Addonizio
Reg. No. 75033-158

Dear Mr. Edelson:

Please be advised that pursuant to your request, the U.S. Board of Parole, after careful and thorough review, have voted to make no change in the July 8, 1975 order continuing Mr. Addonizio's case for an institutional review hearing in January 1977.

Since this case was reopened by me under authority of the Code of Federal Regulations, Sections 2.17 and 2.28, no Notice of Action is being forwarded to Mr. Addonizio. However, he has been advised of the final decision by a telephone call on February 24, 1976 to the Lewisburg penitentiary.

I am taking the liberty of sending a copy of this letter to Mrs. Addonizio at her residence and to Mr. Addonizio at the institution.

Sincerely,

/s/ Joseph Nardoza
JOSEPH NARDOZA
Regional Director

[SEAL]

U.S. PENITENTIARY
LEWISBURG, PA.

DATE: 4-26-76

TO : Addonizio, Hugh Reg. No. 75033-158 FD
FROM : W. M. Kennedy, Chief, Case Management RBJ
SUBJECT : Designation as Central Monitoring Case

In accordance with Bureau of Prisons Policy Statement 7900.53, you have been tentatively designated as a Central Monitoring Case for the reason indicated below. The purpose of this designation is to monitor and control the transfer and community participation of those inmates who pose special management problems, by maintaining in our Central Office in Washington a record of these inmates, known as "Central Monitoring Cases". These cases require prior Central Office approval for such transfers or community activities. This centralized monitoring is not for the purpose of precluding transfers or participation in community activities for those who are otherwise eligible, but to provide coordination and consistency.

A check appears next to the reason for your tentative designation.

A. [] Offenders who require protection because they may be in serious danger if confined in the same facility with certain other offenders or in certain geographical areas are considered Central Monitoring Cases. Likewise, the offenders from whom such protection cases are to be separated are also designated as Central Monitoring Cases in order to maintain the separation.

B. Offenders who by reason of their office, criminal record, institutional behavior, or notoriety require especially close supervision are designated as Central Monitoring Cases.

- B-1 [] Extremely dangerous offenders whose escape attempts or other disruptive activities have been or would likely be of significant danger to others;
 - B-2 [] Offenders who have made threats to high government officials;
 - B-3 [✓] Offenders who have received unusual publicity because of the nature of the crime, arrest, trial, prisoner status, or record of involvement in criminal activity of a sophisticated nature or whose presence in the community or in minimum security institutions might depreciate the seriousness of the offense or promote disrespect for the law.
 - B-4 [] Other offenders who require close supervision for their own or others' protection.
- C. [] All offenders at USP, Lewisburg serving state commitments under contract with the non-federal authority are considered Central Monitoring Cases.

Other pertinent information (where applicable) —
 You have the opportunity to respond or object to this designation. You may respond orally or in writing to the Chief, Case Management or Case Management Coordinator within a period of thirty days of this date.

cc: Central File
 C.M.C. File

Tuesday
 April 27, 1976

Dear Mike,

Enclosed is the latest memorandum which I have received from the institution. I am sending it on to you for whatever action you think is necessary. I believe Policy Statement 7900.53 is a new policy statement that came out a few weeks ago. I have not read it but from what I can gather from around here it has to do with furloughs. It seems they are going to have two (2) classifications now, here at the Farm Dormitory. One (1) will be minimum and the other will be minimum community. As you can judge from the enclosed I will not be considered for furlough so evidently I will still be classified minimum but designated as a Central Monitoring Case and therefore ineligible. I think this is important enough to bring to the attention of the Judge handling my matter as it again shows, that being designated a special offender, deprives you from having the same privileges that others have here, some of whom may sleep right next to you. It shows very strongly in my judgment, the double standard of justice that they have here at this institution and why it is important for the Judge to take some action. I know Louise Knight has written to him but I think it's important to follow up with this as he may not be aware of it. Please let me know what happens.

Hoping that this note finds you and your family in the best of health and that you will convey my best to Bernie also. Rest assured too, that I appreciate all you have done and I will always be grateful.

Sincerely,

/s/ Hugh

TO : Addonizio, Hugh Reg. No. 75033-158
 /s/ W. M. Kennedy
 FROM : W. M. Kennedy, Chief, Case Management
 SUBJECT : Designation as Central Monitoring Case

You were recently given a form indicating that you were tentatively being designated a Central Monitoring Case. We have received additional clarification to the effect that a more specific reason should be set forth. Therefore, the attached form supercedes the one originally sent to you and that copy should be destroyed.

DATE: 5-7-76
 TO : Addonizio, Hugh Reg. No. 75033-158
 /s/ W. M. Kennedy
 FROM : W. M. Kennedy, Chief, Case Management
 SUBJECT : Designation as Central Monitoring Case

In accordance with Bureau of Prisons Policy Statement 7900.53, you have been tentatively designated as a Central Monitoring Case for the reason indicated below. The purpose of this designation is to monitor and control the transfer and community participation of those inmates who pose special management problems, by maintaining in our Central Office in Washington a record of these inmates, known as "Central Monitoring Cases". These cases require prior Central Office approval for such transfers or community activities. This centralized monitoring is not for the purpose of precluding transfers or participation in community activities for those who are otherwise eligible, but to provide coordination and consistency.

You have the opportunity to respond or object to this designation. You may respond orally or in writing to the Chief, Case Management or Case Management Coordinator within a period of thirty days of this date.

A check appears next to the reason for your tentative designation with the specifics noted in the "comment" section.

- A. [] Offenders who require protection because they may be in serious danger if confined in the same facility with certain other offenders or in certain geographical areas are considered Central Monitoring Cases. Likewise, the offenders from whom such protection cases are to be separated are also designated as Central Monitoring Cases in order to maintain the separation.
- B. Offenders who by reason of their offense, criminal record, institutional behavior, or notoriety require especially close supervision are designated as Central Monitoring Cases.

- B-1 [] Extremely dangerous offenders whose escape attempts or other disruptive activities have been or would likely be of significant danger to others;
 - B-2 [] Offenders who have made threats to high government officials;
 - B-3 [✓] Offenders who have received unusual publicity because of the nature of the crime, arrest, trial, prisoner status, or record of involvement in criminal activity of a sophisticated nature or whose presence in the community or in minimum security institutions might depreciate the seriousness of the offense or promote disrespect for the law.
 - B-4 [] Other offenders who require close supervision for their own or others' protection.
- C. [] All offenders at USP, Lewisburg serving state commitments under contract with the non-federal authority are considered Central Monitoring Cases.

Comments: Your past positions as a U.S. Congressman and the Mayor of Newark, NJ plus the publicity you received as a result of the multiple extortion charges while you were mayor. The offense was extremely sophisticated and represented a large scale criminal conspiracy as well as a violation of the public trust while a city official.

June 21, 1976

Joseph Nardoza, Regional Director
United States Board of Parole
Northeast Region
Scott Plaza II, 6th Floor
Industrial Highway
Tinicum Township
Philadelphia, Pennsylvania 10113

Re: *Hugh J. Addonizio*

Dear Mr. Nardoza:

We last wrote to you as counsel for Hugh J. Addonizio on February 3, 1976 requesting at that time a reexamination of Mr. Addonizio's parole file because of the reopening of the cases and granting of parole to two co-defendants who had received the same sentence as Mr. Addonizio.

The file was reviewed and we received notice from you dated March 1, 1976 that the United States Board of Parole had voted to make no change in the June 8, 1975 order continuing Mr. Addonizio's case for an institutional review hearing in January 1977.

Since that date the following events have occurred which we believe justify a reexamination of Mr. Addonizio's file and the granting to him of parole:

1. On May 3, 1976 the Honorable R. Dixon Herman, United States District Court Judge for the Middle District of Pennsylvania, ordered the "special offender" designation removed from Mr. Addonizio's file. That designation had been on the file during all prior considerations of Mr. Addonizio's applications for parole. A copy of Judge Herman's Order is enclosed.
2. The new Parole Commission and Reorganization Act signed by President Ford on March 15, 1976 became effective as of May 15, 1976. That act, and particularly Sections 4206 and 4207, establish criteria,

procedures, and guidelines on information to be considered by the Parole Board which were not in existence at the time Mr. Addonizio's applications were before the Board.

Mr. Addonizio's prison record remains exemplary. He has now served fifty-one months in prison while the guidelines for the crime of which he was convicted call for institutionalization of twenty-six to thirty-six months. He was first eligible for parole over eleven months ago. His salient quotient factor remains the highest obtainable.

It is now several months since the release of the two co-defendants, Joseph Biancone and Anthony La Morte. The only publicity, of which I am aware, resulting from their release were articles sympathetic to Mr. Addonizio comparing the treatment accorded him with that accorded Biancone and La Morte; particularly since Biancone was widely reported in the press to have been an "associate of New Jersey underworld leader Ruggiero A. (Tony Boy) Boiardo, Jr." It should also be noted that Mr. Boiardo, who was an original co-defendant in the case, was severed in the middle of the trial and has never been brought to final judgment. Four elected officials of the City of Newark (councilmen) had also been indicted as co-defendants. They were severed at the beginning of the trial because of the unavailability of their attorney, and have, like Mr. Boiardo, never been brought to trial. In the meantime, Mr. Addonizio remains in jail.

We submit with all due respect that Mr. Addonizio has been more than punished. Release at this time could not deprecate the seriousness of the crime. When measured against the punishment of his original co-defendants, there is no sense, no justice, and no reason in requiring Mr. Addonizio to remain behind bars.

The Honorable George H. Barlow, United States District Court Judge for the District of New Jersey (the sentencing judge) stated in a letter to Mr. Addonizio that he (Judge Barlow) had requested Mr. Norman A. Carlson, Director of the Bureau of Prisons, to review

Mr. Addonizio's special offender classification since "on the basis of the facts known to me, it didn't appear that you [Mr. Addonizio] represented a threat to a particular inmate, the institution, or the community." That letter was written on April 4, 1974; two years and two months ago.

The new Parole Act mandates consideration by the Parole Board of the views of the sentencing judge. It is fair to say that in fixing a sentence the sentencing judge assumes that the Parole Board will follow its own and legislative guidelines with the result that the man sentenced will be freed on parole in accordance with those guidelines provided he has a good prison record. The only ground ever suggested for the denial of Mr. Addonizio's parole was in regard to the original publicity attendant to his trial and conviction. As a result of that same publicity, Mr. Addonizio was denied until very recently "minimum custody" status and was required to remain at a medium security facility. Even today he is denied many privileges, including the right to furlough. I am also enclosing for your consideration two letters from the Addonizio family physician, Dr. William H. Di Giacomo, the first dated July 15, 1975 and the second dated March 30, 1976; both of which have not received any positive response.

Based upon all of the foregoing, we respectfully request both your consideration and that of the Board of Parole.

Very truly yours,

ME/ny
encls.

[SEAL]

UNITED STATES DEPARTMENT OF JUSTICE
UNITED STATES BOARD OF PAROLE

Scott Bldg. Scott Plaza II
Industrial Highway, Tinicum Township
Philadelphia, Pennsylvania 19113

July 1, 1976

Mr. Michael Edelson, Esq.
Herrling, Lindeman, Landau & Siegal
Counsellors at Law
1180 Raymond Boulevard
Newark, N.J. 07102

Re: ADDONIZIO, Hugh J.
Reg. No. 75033-158

Dear Mr. Edelson:

This acknowledges your letter of June 21, 1976 in which you requested us to reexamine Mr. Addonizio's parole file and consider the reopening of this case.

Please be assured that the Commission has considered carefully the information in your letter, but has determined that no favorable action be taken at this time. The Notice of Action dated July 8, 1975 continuing Mr. Addonizio for an institutional review hearing in January, 1977 remains in effect. Your letter is being placed in the file to retain a record of your comments and recommendations.

Sincerely yours,

/s/ Joseph A. Nardoza
JOSEPH A. NARDOZA
Regional Commissioner

JCR/kk

[SEAL]

[SEAL]

UNITED STATES DEPARTMENT OF JUSTICE
UNITED STATES BOARD OF PAROLE

Washington, D.C. 20537
October 29, 1975

Mr. Michael Edelson
Attorney at Law
1180 Raymond Boulevard
Newark, New Jersey 07102

Re: Hugh J. Addonizio
Reg. No. 75033-158

Dear Mr. Edelson:

This is to confirm our telephone call to your office on October 16, 1975.

The U.S. Board of Parole, meeting in Dallas, Texas, on October 15, 1975, affirmed the previous decision dated July 8, 1975. This means that Mr. Addonizio has been continued for a further institutional review hearing in January 1977.

Sincerely yours,

/s/ Daniel J. Capodanno
DANIEL J. CAPODANNO
Analyst
National Appellate Board

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

Civil No. 76-2220

THOMAS J. WHELAN AND THOMAS M. FLAHERTY

v.

UNITED STATES OF AMERICA

RELEVANT DOCKET ENTRIES

DATE	PROCEEDINGS
11-29-76	Motion to vacate sentences imposed in Cr. 570-70 filed 11-22-76
1-12-77	Hearing on motion to vacate sentences imposed in Cr. 570-70.
3-14-77	Order denying motion to vacate sentences imposed in Cr. 570-70 filed 3-11-77 (Biunno).
5-25-78	Order on mandate that the judgment entered March 14, 1978 is vacated and set aside; and cause remanded for reconsideration filed 5-24-78.
7-31-78	Order denying motion to vacate sentence imposed in Cr. 570-70 filed 7-28-78 (Biunno).
8-11-78	Amendment to order of 7-26-78 filed 8-9-78 (Biunno).
8-28-78	Order of July 26, 1978 denying defendants' motion to vacate sentences vacated; motions to correct sentences granted (Biunno).

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

Case No. 77-1621

THOMAS J. WHELAN AND THOMAS M. FLAHERTY

v.

UNITED STATES OF AMERICA

RELEVANT DOCKET ENTRIES

DATE	PROCEEDINGS
1-12-78	Argued, Coram; Aldisert and Hunter, C.J. and Cahn, D.J.
2-27-78	Judgment vacating the judgment of the district court (filed March 11, 1977) and remanding the cause for reconsideration, filed.

[SEAL]

UNITED STATES DEPARTMENT OF JUSTICE
UNITED STATES BOARD OF PAROLE

Washington, D.C. 20537

Notice of Action

Name—Thomas Flaherty

Register Number—73404-158

Institution—Lewisburg

In the case of the above-named the following action with regard to parole, parole status, or mandatory release was ordered:

Your case has been designated as Original Jurisdiction and referred to the National Commissioners for decision

(Reasons for continuance or revocation)

(Conditions or remarks)

Pursuant to CFR Section 2.17—The offense involved an Unusual degree of planning and was part of a large-scale continuing criminal conspiracy and you have received national or unusual attention because of the nature of the crime, arrest, trial and because of the community status.

Appeals procedure: You have a right to appeal a decision as shown below. Filing the appeal is your responsibility which others cannot perform for you. Forms for that purpose may be obtained from your caseworker, and must be filed with the Board within thirty days of the date this Notice was sent.

- A. *Decision of a Hearing Examiner Panel.* Appeal may be made to the Regional Director.
- B. *Decision of the National Directors when referred to them for reconsideration.* Appeal may be made to the Regional Director.

- C. *Decision of the Regional Director.* Appeal may be made to the National Appellate Board.
- D. *Decision of National Directors in cases where they assumed original jurisdiction.* Appeal may be made to the entire Board.

Copies of this notice are sent to your institution and your probation officer. In certain cases copies may also be sent to the sentencing court. You are responsible for advising any others to whom you might wish to make information on this form available.

June 11, 1976
(Date Notice sent)

Northeast
(Region)
(NAB)
(Nat. Dir)

mg
(Docket Clerk)

BOARD FILE COPY

[SEAL]

UNITED STATES DEPARTMENT OF JUSTICE
UNITED STATES BOARD OF PAROLE

Washington, D.C. 20537

NOTICE OF ACTION

Name—Thomas Flaherty

Register Number—73404-158

Institution—Lewisburg

In the case of the above-named the following action with regard to parole, parole status, or mandatory release was ordered:

Continue for Statutory Review Hearing in June 1978.

(Reasons for continuance or revocation)
(Conditions or remarks)

Your offense behavior has been rated as very high severity. You have a salient factor score of 11. You have been in custody a total of 59 months. Guidelines established by the Commission for adult cases which consider the above factors indicate a range of 26-36 months to be served before release for cases with good institutional program performance and adjustment. After review of all relevant factors and information presented, a decision above the guidelines at this consideration appears warranted because your offense was part of a large scale, organized criminal conspiracy and an ongoing criminal enterprise, according to Presentence Investigation dated July 30, 1971. In addition the offense committed involved a violation of public trust. Commission policy prohibits a continuance in your case of more than 24 months without review. Your next review has been scheduled in accordance with this statute.

Appeals procedure: You have a right to appeal a decision as shown below. Filing the appeal is your re-

sponsibility which others cannot perform for you. Forms for that purpose may be obtained from your caseworker, and must be filed with the Board within thirty days of the date this Notice was sent.

- A. *Decision of a Hearing Examiner Panel.* Appeal may be made to the Regional Director.
- B. *Decision of the National Directors when referred to them for reconsideration.* Appeal may be made to the Regional Director.
- C. *Decision of the Regional Director.* Appeal may be made to the National Appellate Board.
- D. *Decision of National Directors in cases where they assume original jurisdiction.* Appeal may be made to the entire Board.

Copies of this notice are sent to your institution and your probation officer. In certain cases copies may also be sent to the sentencing court. You are responsible for advising any others to whom you might wish to make information on this form available.

July 7, 1976
(Date Notice sent)

National Commissioners
(Region)
(NAB)
(Nat. Dir)

(Docket Clerk)

BOARD FILE COPY

[SEAL]

UNITED STATES DEPARTMENT OF JUSTICE
UNITED STATES PAROLE COMMISSION

Washington, D.C. 20537

NOTICE OF ACTION ON APPEAL

Name—Thomas M. Flaherty

Register Number—73404-158

Institution—Lewisburg

REGIONAL APPEAL: The appeal by the above-named has been carefully examined by the Regional Director(s) and the following was ordered:

- Affirmation of the previous decision.
- Reversal or modification of the previous decision, as follows:
- An institutional hearing during the month of _____
- A regional appellate hearing before the Regional Director.

You have a right to appeal this order to the National Appeals Board. Forms for that purpose may be obtained from your caseworker, and must be filed with the Chief, Classification and Parole (or his equivalent), within 30 days of the date shown below. All appeals (Regional and National) must be sent to the Regional Office for processing.

NATIONAL APPEAL: The appeal by the above-named has been carefully examined by the National Appeals Board and the following was ordered:

- a) No other information submitted for requested review was deemed significant enough to affect the decision.

XXX Affirmation of the previous decision.

- b) Reasons given support the decision.

- Reversal or modification of the previous decision as follows:
- An institutional hearing during the month of _____
- A rehearing at the regional appellate level.
- A hearing before the entire Commission (applicable only in cases where the Regional Directors assumed original jurisdiction).

All decisions by the National Appeals Board on appeals are final.

October 19, 1976
(Date Notice sent)

(Region-specify)

NFE
(Docket Clerk)

National Appeals Board
XXX
(Check)

COMMISSION COPY—REGIONAL OFFICE

[SEAL]

UNITED STATES DEPARTMENT OF JUSTICE
UNITED STATES BOARD OF PAROLE

Washington, D.C. 20537

NOTICE OF ACTION

Name—Thomas Whelan

Register Number—73405-158

Institution—Lewisburg

In the case of the above-named the following action with regard to parole, parole status, or mandatory release was ordered:

Your case has been designated as Original Jurisdiction and referred to the National Commissioners for decision.

(Reasons for continuance or revocation)
(Conditions or remarks)

Per CFR, Section 2.17, the offense involved an unusual degree of planning and was part of a large-scale continuing criminal conspiracy and you received national and unusual attention because of the nature of the crime, the arrest and the trial.

Appeals procedure: You have a right to appeal a decision as shown below. Filing the appeal is your responsibility which others cannot perform for you. Forms for that purpose may be obtained from your caseworker, and must be filed with the Board within thirty days of the date this Notice was sent.

- A. *Decision of a Hearing Examiner Panel.* Appeal may be made to the Regional Director.
- B. *Decision of the National Directors when referred to them for reconsideration.* Appeal may be made to the Regional Director.

- C. *Decision of the Regional Director.* Appeal may be made to the National Appellate Board.
- D. *Decision of National Directors in cases where they assumed original jurisdiction.* Appeal may be made to the entire Board.

Copies of this notice are sent to your institution and your probation officer. In certain cases copies may also be sent to the sentencing court. You are responsible for advising any others to whom you might wish to make information on this form available.

June 11, 1976
(Date Notice sent)

Northeast
(Region)
(NAB)
(Nat. Dir)

mg
(Docket Clerk)

BOARD FILE COPY

[SEAL]

UNITED STATES DEPARTMENT OF JUSTICE
UNITED STATES BOARD OF PAROLE

Washington, D.C. 20537

NOTICE OF ACTION

Name—Thomas Whelan

Register Number—73405-158

Institution—Lewisburg

In the case of the above-named the following action with regard to parole, parole status, or mandatory release was ordered:

Continue for Statutory Review Hearing in June 1978.

(Reasons for continuance or revocation)
(Conditions or remarks)

Your offense has been rated as very high severity. You have a salient factor score of 11. You have been in custody a total of 59 months. Guidelines established by the Commission for adult cases which consider the above factors indicate a range of 26-36 months to be served before release for cases with good institutional program performance and adjustment. After review of all relevant factors and information presented, a decision above the guidelines at this consideration appears warranted because your offense was part of a large scale, organized criminal enterprise, in accordance with Presentence Investigation dated July 30, 1971. In addition, the offense committed was a violation of public trust. Commission policy prohibits a continuance in your case of more than 24 months without review. Your next review has been scheduled in accordance with this statute.

Appeals procedure: You have a right to appeal a decision as shown below. Filing the appeal is your re-

sponsibility which others cannot perform for you. Forms for that purpose may be obtained from your caseworker, and must be filed with the Board within thirty days of the date this Notice was sent.

- A. *Decision of a Hearing Examiner Panel.* Appeal may be made to the Regional Director.
- B. *Decision of the National Directors when referred to them for reconsideration.* Appeal may be made to the Regional Director.
- C. *Decision of the Regional Director.* Appeal may be made to the National Appellate Board.
- D. *Decision of National Directors in cases where they assumed original jurisdiction.* Appeal may be made to the entire Board.

Copies of this notice are sent to your institution and your probation officer. In certain cases copies may also be sent to the sentencing court. You are responsible for advising any others to whom you might wish to make information on this form available.

July 7, 1976
(Date Notice sent)

National Commissioners
(Region)
(NAB)
(Nat. Dir)

(Docket Clerk)

BOARD FILE COPY

[SEAL]

UNITED STATES DEPARTMENT OF JUSTICE
UNITED STATES PAROLE COMMISSION

Washington, D.C. 20537

NOTICE OF ACTION ON APPEAL

Name—Thomas Whelan

Register Number—73405-158

Institution—Lewisburg

REGIONAL APPEAL: The appeal by the above-named has been carefully examined by the Regional Director(s) and the following was ordered:

- Affirmation of the previous decision.
- Reversal or modification of the previous decision, as follows:
- An institutional hearing during the month of _____
- A regional appellate hearing before the Regional Director.

You have a right to appeal this order to the National Appeals Board. Forms for that purpose may be obtained from your caseworker, and must be filed with the Chief, Classification and Parole (or his equivalent), within 30 days of the date shown below. All appeals (Regional and National) must be sent to the Regional Office for processing.

NATIONAL APPEAL: The appeal by the above-named has been carefully examined by the National Appeals Board and the following was ordered:

- a) No other information submitted for requested review was deemed significant enough to affect the decision.

XXX Affirmation of the previous decision.

- b) Reasons given support the decision.

- Reversal or modification of the previous decision as follows:
- An institutional hearing during the month of _____
- A rehearing at the regional appellate level.
- A hearing before the entire Commission (applicable only in cases where the Regional Directors assumed original jurisdiction).

All decisions by the National Appeals Board on appeals are final.

October 19, 1976
(Date Notice sent)

(Region-specify)

(Docket Clerk)

National Appeals Board

(Check)

COMMISSION COPY—REGIONAL OFFICE

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
CR-71-110 RFP

UNITED STATES OF AMERICA

v.

JOSEPH CHARLES BONANNO
ALFRED JOHN SALCICCI
SALVATORE VINCENT BONANNO
aka Bill Bonanno

RELEVANT DOCKET ENTRIES

DATE	PROCEEDINGS
2-14-72	ORD: deft Joseph Bonanno sent. to 5 yrs impr. on each of cts. 3, 4, 5 & 6 to run concurrent under 4208 (a) (2) RFP
8-17-73	Deft. to surrender to Mgr.
10-22-75	deft. sent'd 5 yrs impr. on each of counts 3, 4, 5, & 6 suspended, & deft. if placed on probn. for 5 yrs to run concurrently; deft. to receive credit for time served; ORD for release from custody executed in Open court RFP
2-24-78	REQUEST & ORDER: that B/W issue to deft. JOSEPH C. BONANNO, JR. re: probn. revoc. . . issued B/W this day. RFP
3-2-78	Bench Warrant on return . . . exec. as to deft. Joseph C. Bonanno 2-26-78
6-21-78	MINUTE ORDER re: further proceedings re probn. revoc; Court finds deft. Joseph Bonanno has violated cond. of probation as set forth in opinion. It is hereby ordered probation be revoked; it is hereby ordered that deft. Joseph Bonanno is committed to cust. of AG for 5 yrs as proscribed in the judgt imposed Oct. 22, 1975 on each of cts. 3, 4, 5 and 6 to run concurrently with the other; Deft's motion for stay of exec of judg pending appeal is DENIED w/o prej.
6-29-78	Notice of appeal filed regarding probn. rev.
9-5-78	J and commitment on return execution

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

C75-1027 RFP

JOSEPH CHARLES BONANNO

v.

UNITED STATES OF AMERICA

RELEVANT DOCKET ENTRIES

DATE	PROCEEDINGS
5-22-75	Filed petition to correct sentence
6-23-75	Pltf's OSC hrq 2255 mo
10-3-75	Filed MEMO and ORD; the sent of Bonanno is vacated; the USM is directed to bring Petnr before court for re-sent'g on 10-22-75/9:15 am RFP

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

No. 76-1122

JOSEPH CHARLES BONANNO, JR.

v.

UNITED STATES OF AMERICA
RELEVANT DOCKET ENTRIES

DATE	PROCEEDINGS
2-13-78	Argued & submitted to Merrill, Cummings & Sneed, CJJ. ec
3-3-78	Filed memorandum—Here habeas corpus must be sought from the D.C. for the Central District of California. On the authority of Andrino, the order of the D.C. is vacated and the matter is remanded with instructions to dismiss for lack of jurisdiction.
3-3-78	Filed & Entd Judgment —fn—
3-20-78	Filed appellee's Petition for Rehearing with suggestion for Rehearing in banc and/or Motion to Dismiss the Appeal. (Panel) active judges 3/20 ec
4-26-78	Filed, as of Apr. 21, order (M, CUMMINGS & S) The memorandum filed herein on March 3, 1978 is modified. (For Modification See Case File) Further ordered the petition for rehearing is denied and the suggestion for hearing in banc is rejected.—fn—

[SEAL]

EXHIBIT "C"

UNITED STATES DEPARTMENT OF JUSTICE
UNITED STATES BOARD OF PAROLE

Washington, D.C. 20537

NOTICE OF ACTION

Name—Joseph Charles Bonanno

Register Number—03035-156

Institution—T.I.

In the case of the above-named, the Board has carefully examined all the information at its disposal and the following action with regard to parole, parole status, or mandatory release was ordered:

Designation as Original Jurisdiction and refer to the Regional Directors for Original Jurisdiction consideration January 1975.

Conditions or remarks: _____

Reasons for denial, continuance or revocation:
(Use separate sheet if necessary)

[Appeals procedure: You have a right to appeal a decision as shown below. Forms for that purpose may be obtained from your caseworker, and must be filed with the Chief, Classification and Parole, (or his equivalent) within thirty days of the date this Notice was sent.

- A. *Decision of a Hearing Examiner Panel.* Appeal may be made to the Regional Director.
- B. *Decision of the National Appellate Board referred to it for reconsideration.* Appeal may be made to the Regional Director.
- C. *Decision of the Regional Director.* Appeal may be made to the National Appellate Board.

D. *Decision of Regional Directors in cases where they assumed original jurisdiction. Appeal may be made to the National Appellate Board.] **

October 24, 1974
(Date Notice sent)

Western
(Region-Specify)

KS
(Docket Clerk)

National Appellate Board

(Check)

INMATE COPY

[SEAL]

UNITED STATES DEPARTMENT OF JUSTICE
UNITED STATES BOARD OF PAROLE

Washington, D.C. 20537

NOTICE OF ACTION

Name—Joseph Charles Bonanno

Register Number—03035-156

Institution—Terminal Island

In the case of the above-named, the Board has carefully examined all the information at its disposal and the following action with regard to parole, parole status, or mandatory release was ordered:

Continue to expiration with an interim progress report at one-third of sentence.

Conditions or remarks: _____

Reasons for denial, continuance or revocation:
(Use separate sheet if necessary)

Your offense behavior has been rated as very high severity. You have a salient factor score of 11. You have been in custody a total of 17 months. Guidelines established by the Board for adult cases which consider the above factors indicate a range of 26-36 months to be served before release for cases with good institutional program performance and adjustment. After careful consideration of all relevant factors and information presented, it is found that a decision outside the guidelines at this consideration appears warranted. Your release at this time would depreciate the seriousness of the offense committed and thus is incompatible with the welfare of society.

* Bracketed material not applicable.

Appeals procedure: You have a right to appeal a decision as shown below. Forms for that purpose may be obtained from your caseworker, and must be filed with the Chief, Classification and Parole, (or his equivalent) within thirty days of the date this Notice was sent.

- A. *Decision of a Hearing Examiner Panel.* Appeal may be made to the Regional Director.
- B. *Decision of the National Appellate Board referred to it for reconsideration.* Appeal may be made to the Regional Director.
- C. *Decision of the Regional Director.* Appeal may be made to the National Appellate Board.
- D. *Decision of Regional Directors in cases where they assumed original jurisdiction.* Appeal may be made to the National Appellate Board.

January 15, 1975
(Date Notice Sent)

Western
(Region-Specify)

ch
(Docket Clerk)

National Appellate Board

(Check)

INMATE COPY

[SEAL]

UNITED STATES DEPARTMENT OF JUSTICE
UNITED STATES BOARD OF PAROLE

Washington, D.C. 20587

NOTICE OF ACTION

Name—Joseph Charles Bonanno

Register Number—08035-156

Institution—T.I.

In the case of the above-named, the Board (or its Youth Correction Division) in its offices in Washington, D.C. has carefully examined all the information at its disposal and the following action with regard to parole, parole status, or mandatory release status was ordered.

Referred for Original Jurisdictions consideration.

United States Board of Parole.

WESTERN REGION

KS Date April 21, 1975

INSTITUTION COPY

[SEAL]

UNITED STATES DEPARTMENT OF JUSTICE
 UNITED STATES BOARD OF PAROLE
 Washington, D.C. 20537

NOTICE OF ACTION

Name—Joseph Charles Bonanno
 Register Number—3035-156

Institution—Terminal Isl.—Men's Unit

In the case of the above-named, the Board has carefully examined all the information at its disposal and the following action with regard to parole, parole status, or mandatory release was ordered:

No Change in Board Order dated January 15, 1975.
 Conditions or remarks: REASONS: Your offense behavior has been rated as very high severity. You have a salient factor score of 11. You have been in custody a total of 21 months. Guidelines established by the Board for adult cases which consider the above factors indicate a range of 26-36 months to be served before release for cases with good institutional program performance and adjustment. After careful consideration of all relevant factors and information presented, it is found that a decision outside the guidelines at this consideration appears warranted. There was no new information deemed significant enough to warrant change in previous order. There was an unusually sophisticated or professional manner evident in the planning or commission of the offense.

Appeals procedure: You have a right to appeal a decision as shown below. Forms for that purpose may be obtained from your caseworker, and must be filed with the Chief, Classification and Parole, (or his equivalent) within thirty days of the date this Notice was sent.

- A. *Decision of a Hearing Examiner Panel.* Appeal may be made to the Regional Director.
- B. *Decision of the National Appellate Board referred to it for reconsideration.* Appeal may be made to the Regional Director.
- C. *Decision of the Regional Director.* Appeal may be made to the National Appellate Board.
- D. *Decision of Regional Directors in cases where they assumed original jurisdiction.* Appeal may be made to the National Appellate Board.

May 19, 1975
 (Date Notice sent)

(Region-Specify)

NFB
 (Docket Clerk)

National Appellate Board
 XXX
 (Check)

INMATE COPY

SUPREME COURT OF THE UNITED STATES

No. 77-1665

JOSEPH CHARLES BONANNO, JR., PETITIONER

v.

UNITED STATES

ORDER ALLOWING CERTIORARI. Filed December 11, 1978

The petition herein for a writ of certiorari to the United States Court of Appeals for the Ninth Circuit is granted. The case is consolidated with No. 78-156 and a total of one hour is allotted for oral argument.

SUPREME COURT OF THE UNITED STATES

No. 78-156

UNITED STATES, PETITIONER

v.

HUGH J. ADDONIZIO, et al.

ORDER ALLOWING CERTIORARI. Filed December 11, 1978

The petition herein for a writ of certiorari to the United States Court of Appeals for the Third Circuit is granted. The case is consolidated with No. 77-1665 and a total of one hour is allotted for oral argument.